

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Tony Manzo, et al.,

Plaintiff,

v.

Engrained Cabinetry and Countertops LLC,
et al.,

Defendants.

No. CV-22-08081-PCT-JJT

**ORDER SETTING TELEPHONIC
SETTLEMENT CONFERENCE**

This case has been referred to United States Magistrate Judge Eileen S. Willett for a settlement conference (Doc. 58). The purpose of the settlement conference is to facilitate resolution of the referenced case.

Rule 408, Federal Rules of Evidence, applies to all aspects of the settlement conference. All communications and information exchanges made in the settlement process, not otherwise discoverable, will not be admissible in evidence for any purpose. At the conclusion of the settlement conference, all documents submitted by the parties shall be returned, destroyed, or otherwise disposed of in the manner directed by the settlement judge.

Pursuant to Rule 16, Federal Rules of Civil Procedure, and 28 U.S.C. §473(b)(5),

IT IS ORDERED THAT:

1. A Telephonic Settlement Conference shall be held before United States Magistrate Judge Eileen S. Willett on **December 11, 2023 at 10:00 a.m.** The Telephonic Settlement Conference shall continue until concluded by the Court. Defense counsel

1 shall facilitate the conference call-in number for purposes of the general session and
 2 email the same to the Settlement Magistrate Judge (willett_chambers@azd.uscourts.gov)
 3 and opposing counsel three (3) business days prior to the Settlement Conference. All
 4 counsel shall email to the Settlement Magistrate Judge
 5 (willett_chambers@azd.uscourts.gov) separate conference phone call-in numbers for
 6 purposes of caucusing.

7 2. Sanctions may result, including possible dismissal of the case, if a party fails
 8 to:

- 9 • Appear for the Telephonic Settlement Conference or as otherwise set
 10 forth in this order;
- 11 • Participate in good faith at the Telephonic Settlement Conference;
- 12 • Timely submit the Confidential Settlement Statement attached
 13 hereto; OR
- 14 • Comply with any other portion of this order.

15
 16 3. Plaintiffs shall be telephonically present at the Telephonic Settlement
 17 Conference. Defendants shall be telephonically present at the Telephonic Settlement
 18 Conference.

19 4. A corporation, association, partnership, business entity, organization,
 20 governmental agency, or political body shall telephonically appear through a
 21 representative having full binding settlement authority in addition to counsel.¹
 22

23 5. Counsel who will be responsible for trial of the lawsuit for each party shall
 24 telephonically appear and participate in good faith at the Settlement Conference.

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 26
 27 ¹ “Full binding settlement authority” within this Order means that the individual
 28 appearing for or on behalf of the Defendant(s) shall have the express authority and
 discretion to authorize payment to, or accept the terms of, Plaintiff’s last settlement
 demand.

6. To facilitate the resolution of the case without Court involvement, unless otherwise directed by the Settlement Magistrate Judge, the parties shall exchange two rounds of written offers regarding settlement at least fourteen days before the Settlement Conference. All responses to both settlement offers shall be exchanged no later than **seven days** before the Settlement Conference. The parties shall email copies of the settlement offers/responses to the Settlement Magistrate Judge.

7. Each party (i.e. each separately represented party and each unrepresented party) shall submit a completed settlement statement form and signed mediation ground rules form (copies are attached for your use). The statement shall be **emailed to Chambers** (willett_chambers@azd.uscourts.gov), and it must be received by United States Magistrate Judge Eileen S. Willett on or before **December 4, 2023**.

8. If a party believes that the Telephonic Settlement Conference would be a futile act² resulting in economic waste inconsistent with Rule 1, Fed. R. Civ. P., the party shall file a notice with the Court **no later than fourteen (14) days** after the date of this Order. The party shall also provide a copy of the notice to Magistrate Judge Eileen S. Willett's chambers. The notice shall explain in detail why the party believes the Telephonic Settlement Conference would not be an efficient use of time and resources of the parties and the Court. Upon receiving the notice, the Court may arrange a telephonic conference with counsel to discuss whether the Settlement Conference, or another form of alternative dispute resolution, would help move the case towards resolution.

9. Failure to timely file the notice described in the preceding paragraph constitutes a party's acknowledgment and agreement that there is a reasonable, good faith opportunity to resolve the case at the Telephonic Settlement Conference.

IT IS FURTHER ORDERED that counsel for the Plaintiffs and the Plaintiffs shall appear telephonically at the Settlement Conference set on **December 11, 2023 at**

² A settlement conference may be deemed a futile act, for example, when a party or insurer adopts a position from which that party or insurer refuses to deviate.

1 **10:00 a.m.** Due to the confidential nature of the Settlement Conference, one phone
2 number at which counsel for the Plaintiffs and the Plaintiffs may be contacted the
3 morning of the Telephonic Settlement Conference will be required to enable private
4 caucusing among the parties and the Magistrate Judge. Contact information should be
5 emailed to Judge Willett's Chambers (willett_chambers@azd.uscourts.gov) no later than
6 three business days prior to the Telephonic Settlement Conference. The Settlement
7 Conference shall continue until concluded by the Court.

8 **IT IS FURTHER ORDERED** that counsel for the Defendants, the Defendants,
9 and a representative shall appear telephonically at the Settlement Conference set on
10 **December 11, 2023 at 10:00 a.m.** Counsel for the Defendant shall provide to Chambers
11 one phone number where counsel, the Defendant, and the representative may be reached
12 all morning to enable private caucusing among the parties and the Magistrate Judge.
13 Contact information should be emailed to Judge Willett's Chambers
14 (willett_chambers@azd.uscourts.gov) no later than three business days prior to the
15 Telephonic Settlement Conference. The Settlement Conference shall continue until
16 concluded by the Court.

17 Dated this 2nd day of November, 2023.

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22 Honorable Eileen S. Willett
23 United States Magistrate Judge
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CONFIDENTIAL SETTLEMENT STATEMENT

IN RE: CV-

THIS DOCUMENT IS CONFIDENTIAL AND SHOULD BE SENT DIRECTLY TO THE SETTLEMENT CONFERENCE JUDGE, HON. EILEEN S. WILLETT, UNITED STATES DISTRICT COURT, 401 WEST WASHINGTON STREET, SUITE 321, SPC 13, PHOENIX, AZ 85003. THIS DOCUMENT SHALL NOT BE SERVED ON THE OPPOSING PARTY NOR FILED WITH THE CLERK OF THE COURT. THIS DOCUMENT WILL BE DESTROYED AT THE CONCLUSION OF THE SETTLEMENT CONFERENCE PROCEEDINGS. NO REFERENCE TO THIS DOCUMENT OR ITS CONTENTS SHALL BE MADE IN ANY MOTIONS, BRIEFS OR OTHER DOCUMENTS FILED IN THIS CASE. THIS DOCUMENT SHALL BE INADMISSABLE IN EVIDENCE IN ANY JUDICIAL PROCEEDING.

PARTY SUBMITTING STATEMENT: _____

NAME OF ATTORNEY SUBMITTING STATEMENT: _____
(OR PARTY IF UNREPRESENTED BY COUNSEL)

ADDRESS: _____

PHONE: _____

FAX: _____

1
2 FACTS

3 Give a brief statement of the undisputed facts. Give a brief statement of the disputed
4 facts.

5
6
7 ISSUES

8 List all issues to be negotiated:
9
10

11 HISTORY

12 Give a chronology of significant events involving any prior settlement discussions and
13 mediations attended, including each offer or demand made.
14
15

16 CASE ANALYSIS: Yours

17 Describe from your perspective the strengths and weaknesses of your case:
18
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20 CASE ANALYSIS: Theirs

21 Describe from their perspective the strengths and weaknesses of their case:
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23

24 CRITERIA:

25 List the criteria you will use to decide if a proposal is acceptable:
26
27

28 List the criteria you believe they will use to decide if a proposal is acceptable:

OPTIONS:

Generate a list of possible options for each issue to be negotiated.

ISSUES	OPTIONS

ANY OTHER INFORMATION THAT YOU FEEL WOULD HELP THE SETTLEMENT CONFERENCE JUDGE:

DATED this _____ day of _____, 20__.

Signature of Counsel or Party

Please use the format provided to answer the questions posed. Please be courteous and reasonable in the length of your responses.

Ground Rules

I agree to comply with the following ground rules while participating in my settlement conference:

- I will keep an open mind today. I recognize that I am here to collaborate and attempt to resolve my issues. I will create any agreements reached. I will make any decisions myself.
- I will be creative. I will consider all ideas presented and share any ideas I have.
- I will be courteous to all participants and respectful of the process. I will not curse, yell, or call people names.
- I will not interrupt when others are speaking. I will listen.
- I will not multitask during my conference.
- I will be patient. I know that great ideas require time and effort.
- I commit to participate in good faith today.
- I will maintain the confidentiality of this process. I will not record any portion of the conference.

Dated this _____ day of _____, 20__.

Plaintiff:

Defendant:

Plaintiff's Counsel:

Defendant's Counsel:

Settlement Judge: